

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Yolanda Saldivar

v.

Nathaniel Quarterman

§

§

§ CASE NUMBER: H-08-cv-1026

§ District Judge: Magistrate Judge John
Froeschner

§ Court Reporter(s):

§

NOTICE OF THE FILING OF AN APPEAL

In connection with this appeal, instrument # 30, filed by Yolanda Saldivar, a copy of the notice of appeal, the order being appealed and the docket sheet are attached.

In regard to this appeal:

- The Court of Appeal \$455.00 filing and docketing fees have not been paid, the appellant is a pro se litigant and a notice regarding a motion to proceed in forma pauperis was entered and a response is due.
- No transcripts.

Michael N. Milby, Clerk

UNITED STATES DISTRICT COURT

District of _____

Plaintiff

V.

Defendant

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

CASE NUMBER: _____

I, _____ declare that I am the (check appropriate box)

☐ petitioner/plaintiff/movant

☐ other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? ☐ Yes ☐ No (If "No," go to Part 2)

If "Yes," state the place of your incarceration _____

Are you employed at the institution? _____ Do you receive any payment from the institution? _____

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? ☐ Yes ☐ No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

- | | | |
|---|------------------------------|-----------------------------|
| a. Business, profession or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. Rent payments, interest or dividends | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. Pensions, annuities or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. Disability or workers compensation payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| e. Gifts or inheritances | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| f. Any other sources | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

4. Do you have any cash or checking or savings accounts? ☐ Yes ☐ No

If "Yes," state the total amount. _____

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value? ☐ Yes ☐ No

If "Yes," describe the property and state its value.

6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

I declare under penalty of perjury that the above information is true and correct.

Date

Signature of Applicant

NOTICE TO PRISONER: A Prisoner seeking to proceed without prepayment of fees shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

UNITED STATES DISTRICT COURT

District of _____

Plaintiff

V.

Defendant

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES

CASE NUMBER: _____

Having considered the application to proceed without prepayment of fees under 28 USC §1915;

IT IS ORDERED that the application is:

☐ GRANTED.

☐ The clerk is directed to file the complaint.

☐ IT IS FURTHER ORDERED that the clerk issue summons and the United States marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff. All costs of service shall be advanced by the United States.

☐ DENIED, for the following reasons:

ENTER this _____ day of _____, _____.

Signature of Judge

Name and Title of Judge

FEB 18 2009

NOTICE OF APPEAL

TO A COURT OF APPEALS

Michael N. Milby, Clerk

FROM A JUDGMENT OR ORDER OF A DISTRICT COURT

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

YOLANDA SALDIVAR, #733126

PETITIONER

v.

NATHANIEL QUARTERMAN,

DIRECTOR, TDCJ-CID

RESPONDENT

* CIVIL ACTION NO. H-08-1026

*

*

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* NOTICE OF APPEAL

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Notice is hereby given that Yolanda Saldivar, Petitioner, in the above named case, hereby appeals to the United States Court of Appeals for the Southern District of Texas, Houston Division, from the Final Judgment granting Summary Judgment by the Magistrate Judge entered in this action on the 2nd day of February, 2009.



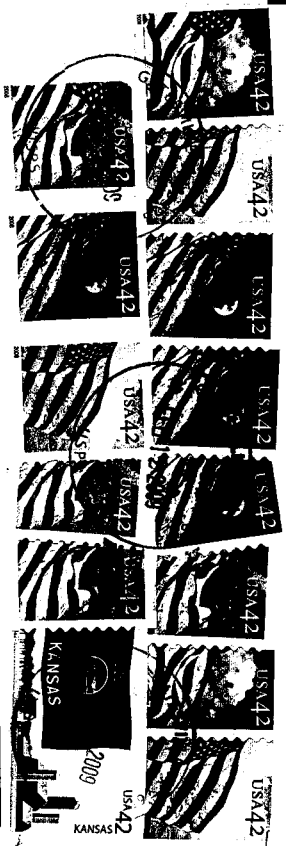
Yolanda Saldivar, #733126
Lane Murray Unit
1916 N. Hwy 36 By Pass
Gatesville, Texas 76596

YOLANDA SALDIVAR 733126
Lane Murrary Unit
1916 W. Hwy 36 Bay A
Galeaville, Tx 76546

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United States District Court
Southern District of Texas
FILED

FEB 18 2009

Michael N. Milby, Clerk

United States District Court
Southern District of Texas
P.O. Box 61010
Houston, Texas 77208

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

YOLANDA SALDIVAR, #733126

v.

NATHANIEL QUARTERMAN
DIRECTOR, TDCJ-CID

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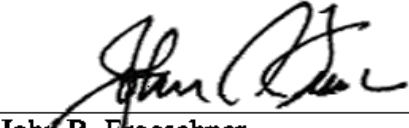
CIVIL ACTION NO. H-08-1026

FINAL JUDGMENT

For the reasons stated in this Court's Order entered on the same date herewith, this action is **DISMISSED**.

THIS IS A FINAL JUDGMENT.

DONE at Galveston, Texas, this 2nd day of February, 2009.



John R. Froeschner
United States Magistrate Judge

APPEAL, CLOSED, HABEAS

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:08-cv-01026
Internal Use Only**

Saldivar v. Quarterman
Assigned to: Magistrate Judge John R Froeschner
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 04/01/2008
Date Terminated: 02/02/2009
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Petitioner**Yolanda Saldivar**

represented by **Yolanda Saldivar**
#733126
Lane Murray Unit
1916 N Hwy 36 By Pass
Gatesville, TX 76596
PRO SE

V.

Respondent**Nathaniel Quarterman**

represented by **Carole S Callaghan**
Texas Office of the Attorney General
P O Box 12548
Capital Station
Austin , TX 78711
512-475-4670
Fax: 512-936-1280
Email: carole.callaghan@oag.state.tx.us

*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
04/01/2008	<u>1</u>	PETITION for Writ of Habeas Corpus (Filing fee \$ 5) filed by Yolanda Saldivar.(ceaton,) (Entered: 04/03/2008)
04/01/2008	<u>2</u>	MEMORANDUM in Support re: <u>1</u> Petition for Writ of Habeas Corpus by Yolanda Saldivar, filed. (Attachments: # <u>1</u> Continuation # <u>2</u> Continuation # <u>3</u> Continuation # <u>4</u> Continuation # <u>5</u> Continuation # <u>6</u> Continuation # <u>7</u>

		Continuation)(ceaton,) (Entered: 04/03/2008)
04/03/2008		Filing fee re: 1 Petition for Writ of Habeas Corpus : \$5.00, receipt number 590530, filed. (agould,) (Entered: 04/03/2008)
04/04/2008	3	NOTICE to Pro Se Litigant. Party notified, filed. (jbradford,) (Entered: 04/04/2008)
04/07/2008	4	ORDER that Ptnr paid the \$5.00 habeas filing fee and further proceedings are STAYED until the Court completes its preliminary consideration of Ptnr's petition. It is further ORDERED that Nathaniel Quarterman is SUBSTITUTED as the proper Rspdnt in this cause.(Signed by Judge John R Froeschner) Parties notified.(sanderson,) (Entered: 04/07/2008)
04/07/2008	5	SHOW CAUSE ORDER Show Cause Response due by 7/10/2008.(Signed by Judge John R Froeschner) Parties notified.(ceaton,) (Entered: 04/08/2008)
04/08/2008		Document(s) Sent by certified mail to Michael Bozarth, Chief, Habeas Corpus; Tracking Number 70073020000273851887 re: 1 Petition for Writ of Habeas Corpus, 5 Order, filed. (ceaton,) (Entered: 04/08/2008)
04/17/2008	7	Certified Mail Receipt Returned as to Attorney General of Texas, executed on 4/11/08 re: Document(s) Sent, filed. (ceaton,) (Entered: 04/21/2008)
04/18/2008	6	CONSENT to Jurisdiction by US Magistrate Judge by Yolanda Saldivar, filed.(blacy,) (Entered: 04/18/2008)
04/22/2008	8	Letter from Yolanda Saldivar re: requesting form for Consent to Proceed Before Magistrate Judge, filed. (jbradford,) (Entered: 04/22/2008)
07/10/2008	9	MOTION for Summary Judgment <i>with Brief in Support</i> by Nathaniel Quarterman, filed. Motion Docket Date 7/30/2008. (Attachments: # 1 Proposed Order, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C)(Callaghan, Carole) (Entered: 07/10/2008)
07/11/2008	10	STATE COURT RECORDS by Nathaniel Quarterman, filed.(lfilmore,) (Entered: 07/14/2008)
07/11/2008	11	STATE COURT RECORDS by Nathaniel Quarterman box 2 of 4, filed. forword to fileroom(ckrus,) (Entered: 07/14/2008)
07/11/2008	12	STATE COURT RECORDS by Nathaniel Quarterman, filed.(espencer,) (Entered: 07/14/2008)
07/21/2008	13	ORDER Ptnr to file response to Rspdnt's Motion for Summary Judgment; Motion-related deadline set re: 9 MOTION for Summary Judgment with Brief in Support..... Ptnr's Responses due by 8/22/2008.(Signed by Magistrate Judge John R Froeschner) Parties notified.(sanderson,) (Entered: 07/21/2008)
07/21/2008	14	NOTICE <i>CONSENT TO PROCEED BEFORE A MAGISTRATE JUDGE</i> by Nathaniel Quarterman, filed. (Callaghan, Carole) (Entered: 07/21/2008)
07/24/2008	15	CONSENT TO PROCEED BEFORE MAGISTRATE JUDGE by Yolanda

		Saldivar, Nathaniel Quarterman and ORDER TRANSFERRING CASE to Magistrate Judge John R Froeschner. Judge Samuel B Kent no longer assigned to the case..(Signed by Judge Samuel B Kent) Parties notified. (bthomas,) (Entered: 07/24/2008)
08/25/2008	16	MOTION for Continuance of Writ of Habeas Corpus by Yolanda Saldivar, filed. 9 Petitioner's Response to Respondent's Answer Motion Docket Date 9/15/2008. (ceaton,) Modified on 8/26/2008 (ceaton,). (Entered: 08/26/2008)
10/27/2008	17	ORDER that Rspdnt has inadvertently attached an affidavit from the clerk in Harris Cty not Nueces Cty in support of his Motion for Summary Judgment and SAHLL submit documentation to remedy the error &/or explaint the oversight (Rspdnt's Brief/Supplemental pleading due by 11/28/2008, Ptnr's Responses due by 12/29/2008). It is further ORDERED DENYING as moot 16 MOTION for Continuance of Writ of Habeas Corpus.(Signed by Magistrate Judge John R Froeschner) Parties notified.(sanderson,) (Entered: 10/28/2008)
11/21/2008	18	ADVISORY by Nathaniel Quarterman, filed. (Attachments: # 1 Exhibit A) (Callaghan, Carole) (Entered: 11/21/2008)
12/30/2008	19	RESPONSE to 17 Order,, filed by Yolanda Saldivar. (lfilmore,) (Entered: 12/31/2008)
12/31/2008	20	ORDER; Motion-related deadline set re: 9 MOTION for Summary Judgment <i>with Brief in Support</i> and Advisory with additional exhibit Responses due by 1/26/2009.(Signed by Magistrate Judge John R Froeschner) Parties notified. (pjameson,) (Entered: 12/31/2008)
12/31/2008	21	Document(s) Sent by certified mail to Yolanda Saldivar; Tracking Number 7000 0520 0022 5562 7559 re: 18 Advisory, filed. (pjameson,) (Entered: 12/31/2008)
01/08/2009	22	Document(s) Sent by FedEx to Yolanda Saldivar; Tracking Number 8663 2780 9797 re: 18 Advisory, filed. (pjameson,) (Entered: 01/08/2009)
01/12/2009	23	Certified Mail Receipt Returned as to Yolanda Saldivar, executed on 1/2/2009 re: 21 Document(s) Sent, filed. (aalonzo,) (Entered: 01/13/2009)
01/26/2009	24	RESPONSE to 18 Advisory, filed by Yolanda Saldivar. (Attachments: # 1 Exhibit A-D)(ltrevino,) (Entered: 01/26/2009)
02/02/2009	25	ORDER granting 9 Motion for Summary Judgment; that the 1 Petition for Writ of Habeas Corpus is DISMISSED with prejudice as time-barred; and, to the extend filed, any pending motions are hereby DENIED.(Signed by Magistrate Judge John R Froeschner) Parties notified.(sanderson,) (Entered: 02/02/2009)
02/02/2009	26	FINAL JUDGMENT - for the reasons stated in this Court's Opinion and Order entered on the same date herewith, this action is DISMISSED as time-barred. Case terminated on 2/2/09.(Signed by Magistrate Judge John R Froeschner) Parties notified.(sanderson,) (Entered: 02/02/2009)

02/13/2009	27	Petitioner's Objections to Magistrate Judge's Decision 25 26 Final Judgment,, filed. (Attachments: # 1 Continuation, # 2 Envelope)(pjameson,) Modified on 2/18/2009 (pjameson,). Modified on 2/18/2009 (dhansen,). (Entered: 02/13/2009)
02/13/2009	29	DOCKETED IN ERROR - PLEASE DISREGARD: NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: 26 Final Judgment, by Yolanda Saldivar (Filing fee \$ 455), filed. (Attachments: # 1 Continuation, # 2 Envelope)(pjameson,) Modified on 2/18/2009 (dhansen,). (Entered: 02/18/2009)
02/17/2009	28	Petitioner's SUPPLEMENT to 27 Petitioner's Objections to Magistrate Judge's Final Judgment by Yolanda Saldivar, filed.(jewilliams,) Modified on 2/18/2009 (dhansen,). (Entered: 02/18/2009)
02/18/2009	30	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: 26 Final Judgment, by Yolanda Saldivar (Filing fee \$ 455), filed.(esmith,) (Entered: 02/19/2009)
02/18/2009	31	SUPPLEMENT to Petitioners Objections oto Summary Judgment 27 MOTION for Reconsideration by Yolanda Saldivar, filed.(esmith,) (Entered: 02/19/2009)
02/19/2009	32	SUPPLEMENTAL copies made to opposing parties by Yolanda Saldivar, filed.(ckrus,) (Entered: 02/19/2009)